

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tessa Yesselman	Team: Squad #4	CCRB Case #: 202006855	<input checked="" type="checkbox"/> Force <input type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury		
Incident Date(s) Thursday, 06/04/2020 7:50 PM	Location of Incident: East 136th Street between Brook Avenue and Brown Place		Precinct: 40	18 Mo. SOL 12/4/2021	EO SOL 5/4/2022
Date/Time CV Reported Fri, 06/05/2020 9:09 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 06/04/2020 9:09 AM		

[illegible]

Witness(es)	Home Address

[illegible]

Subject Officer(s)	Shield	TaxID	Command
1. COD Terence Monahan	00000	876747	CD OFF
2. AC Kenneth Lehr	00000	891719	PBBX

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Kenneth Rice	04867	952164	LEG BUR

Officer(s)	Allegation	Investigator Recommendation
A.COD Terence Monahan	Abuse: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)	
B.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)	
C.COD Terence Monahan	Abuse: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)	
D.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)	
E.COD Terence Monahan	Abuse: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)	
F.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)	
G.COD Terence Monahan	Abuse: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)	
H.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)	
I.COD Terence Monahan	Abuse: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)	
J.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)	
K.COD Terence Monahan	Abuse: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
L.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)	
M.COD Terence Monahan	Abuse: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)	
N.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)	
O.COD Terence Monahan	Abuse: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)	
P.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)	
Q.COD Terence Monahan	Abuse: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)	
R.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)	
S.COD Terence Monahan	Abuse: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)	
T.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)	
U.COD Terence Monahan	Abuse: Chief of Department Terence Monahan participated in the detainment of individuals.	
V.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr participated in the detainment of individuals.	
W.COD Terence Monahan	Abuse: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)	
X.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)	
Y.COD Terence Monahan	Abuse: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)	
Z.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)	
2A.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against individuals.	
2B.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against individuals	
2C.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	
2D.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	
2E.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	
2F.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	
2G.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	
2H.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	
2I.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	
2J.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
2K.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	
2L.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	
2M.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	
2N.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	
2O.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	
2P.AC Kenneth Lehr	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	
2Q.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	
2R.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	
2S.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	
2T.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	
2U.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	
2V.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	
2W.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	
2X.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	
2Y.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	
3Z.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	
3A.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use pepper spray against individuals.	
3B.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use pepper spray against individuals.	
3C.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use pepper spray against § 87(2)(b)	
3D.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use pepper spray against § 87(2)(b)	
3E.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use pepper spray against § 87(2)(b)	
3F.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use pepper spray against § 87(2)(b)	
3G.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the using of blunt instruments to strike individuals.	
3H.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the using of blunt instruments to strike individuals.	
3I.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the using of blunt instruments to strike § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
3J.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the using of blunt instruments to strike § 87(2)(b)	
3K.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the using of blunt instruments to strike § 87(2)(b)	
3L.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the using of blunt instruments to strike § 87(2)(b)	
3M.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the using of blunt instruments to strike § 87(2)(b)	
3N.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the using of blunt instruments to strike § 87(2)(b)	
3O.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the using of blunt instruments to strike § 87(2)(b) § 87(2)(b)	
3P.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the using of blunt instruments to strike § 87(2)(b) § 87(2)(b)	
3Q.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in hitting individuals with bicycles.	
3R.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in hitting individuals with bicycles.	
3S.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in hitting § 87(2)(b) with a bicycle.	
3T.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in hitting § 87(2)(b) with a bicycle.	
3U.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the striking of individuals with police shields.	
3V.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the striking of individuals with police shields.	
3W.COD Terence Monahan	Abuse: Chief of Department Terence Monahan threatened to arrest individuals.	
3X.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr threatened to arrest individuals.	
3Y.COD Terence Monahan	Abuse: Chief of Department Terence Monahan did not obtain medical treatment for individuals.	
4Z.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr did not obtain medical treatment for individuals.	

Case Summary

On June 4, 2020, at approximately 7:30 p.m., in the vicinity of 136th Street and Brook Avenue in the Bronx, Chief of Department Terrence Monahan and Assistant Chief of Department Kenneth Lehr of Patrol Borough Bronx, oversaw the police response to a police brutality protest organized by § 87(2)(b) (hereafter referred to as § 87(2) and § 87(2)(b)).

The following individuals, along with hundreds of other people, attended this protest: § 87(2)(b)

§ 87(2)(b)
§ 87(2)(b)
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§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

This case was sourced using complainants from 15 CCRB cases investigating specific and individual instances stemming from § 87(2)(b) (36 Board Review).

As the protestors marched down 136th Street, a line of police officers was established at Brook Avenue, effectively preventing the protestors from moving forward onto Willis Avenue. Immediately before 8:00 p.m., Assistant AC Lehr ordered the arrest of protestors after consulting with Sergeant Kenneth Rice of NYPD Legal. As a result of Assistant AC Lehr's order, over 300 individuals were arrested during this protest, mostly for violating the 8:00 p.m. curfew.

This complaint resulted in the investigation of 26 allegations of detainment (**Allegations A-Z**), 26 allegations in the participation of force against the individuals listed above (**Allegations AA-AZ**), 6 allegations in the participation of the use of pepper spray (**Allegations BA-BF**), 10 allegations in the participation of using blunt instruments to strike individuals (**Allegations BG-BP**), 4 allegations in the participation of striking individuals with bicycles (**Allegations BQ-BT**), 2 allegations in the participation of striking individuals with police shields (**Allegations BU-BV**), 2 allegations of threat of arrest (**Allegations BW-BX**), and 2 allegations of refusals to obtain medical treatment (**Allegations BY-BZ**).

This case was marked as sensitive due to media coverage (**01 Board Review-07 Board Review, 09 Board Review**).

Background

During his CCRB interview, Chief Monahan (**28 Board Review**) stated that he has been a member of the NYPD since January 1982. He was promoted to Captain in 1992 and was promoted to Chief of Department in 2018. Chief Monahan has previously reported to multiple large-scale protests, including the 1991 Crown Heights Riots, 1992 Washington Heights Riots, 2004 Republican National Convention (RNC), World Economic Forum Protests, and large events including the World Series. In the five years prior to the Summer 2020 Black Lives Matter protests, Chief Monahan had not been trained by the NYPD regarding large-scale crowd control or how to respond to large-scale protests. Chief Monahan has never served in a command that specialized in crowd control, such as the Strategic Response Group (SRG) or Critical Response Command (CRC). In 2004, Chief Monahan participated in a specialized crowd-control training for NYPD supervisors. That 2004 training was the most recent training Chief Monahan received regarding crowd control.

The investigation noted that on March 11, 2020, the World Health Organization declared Covid-19

a pandemic (**19 Board Review**). On March 22, 2020, the New York State On Pause program began, which mandated all nonessential workers to stay home (**20 Board Review**).

Over the course of the spring of 2020, there were several high-profile killings of Black people that sparked outrage and resulted in protests. These incidents included the release of a video on May 5, 2020, showing the murder of Ahmaud Arbery by white vigilantes, and the killing of Breonna Taylor by Louisville, Kentucky police officers on May 13, 2020. On May 25, 2020, George Floyd was murdered by Minneapolis police officer Derek Chauvin. On May 26, 2020, Minneapolis chief, Medaria Arradondo fired the four officers involved in Mr. Floyd's death and protests began in Minneapolis (**21 Board Review**).

By May 27, 2020, protests against police brutality began around the country, including in New York City, St. Louis, Los Angeles, and Detroit. On May 29, 2020, in New York City, thousands protested outside of the Barclays Center in Brooklyn, in lower Manhattan, and on the Manhattan Bridge. More than 200 people were arrested as a result of the protests (**22 Board Review**). According to The Intercept (**18 Board Review**), shortly after midnight on May 31, 2020, New York City Emergency Management (NYCEM) began dispatching reports of looting in Lower Manhattan. The reports lasted until 5:00 AM. On June 1, 2020, former President Donald Trump threatened to deploy the United States military to cities that he described as being unable to control "violence and looting." Also on June 1, 2020, Mayor DeBlasio instituted an 8:00 PM to 5:00 AM curfew (**16 Board Review**), with the following parties exempt: "police officers, peace officers, firefighters, first responders, emergency medical technicians, individuals travelling to and from essential work and performing essential work, people experiencing homelessness and without access to a viable shelter, and individuals seeking medical treatment or medical supplies." At approximately 10:05 PM, NYCEM again began to dispatch reports of looting across Manhattan. According to the Intercept's reporting, Bronx storeowners began to call 911 to report looting starting at 9:00 PM on June 1, 2020, but NYCEM reports do not include mention of Bronx looting until 3:20 AM. The reports in the Bronx were located in the vicinity of Burnside Avenue and Creston Avenue, Fordham Road, Crotona Avenue and East Tremont Avenue, and the Bay Plaza Mall. The reports of looting in the Bronx concluded at 4:00 AM. Between May 31, 2020, to June 3, 2020, the NYPD logged 432 burglaries in Manhattan and 186 in the Bronx.

NYPD Background/Preparation

During his CCRB interview, AC Lehr (**08 Board Review**) stated that on June 1, 2020, there was widespread looting and violence in the area of Fordham Road in the Bronx, from Webster Avenue to Jerome Avenue, which encompasses an approximately 18 block radius. The looting and violence impacted the 46th, 52nd, and 48th Precincts. Over 100 storefronts were compromised and burgled. The police department did not have advance knowledge or any intelligence that these actions were going to happen, so AC Lehr described the police department as "reacting" to the events, instead of responding proactively and more cohesively, the way they would if they had advance knowledge.

According to AC Lehr, the police departments response was further strained because the looting and violence seemed to be coordinated. AC Lehr thought that the actions were coordinated because they were happening on a large scale, and involved hundreds of people, and not a small group. The police department made approximately 138 arrests that day, and approximately 84 of the arrests were for burglary. The people arrested were mostly from the Bronx and came from 11 of the 12 precincts in the Bronx. AC Lehr did not know if any of the arrested civilians were affiliated with § 87(2)(b) or § 87(2)(b). AC Lehr also thought that the events were coordinated because there were people on rooftops throwing "airmail" at officers trying to stop the looting and violence. "Airmail" is a police term for when people throw objects at police officers. The people throwing the

airmail seemed to have a stockpile of materials to use including trash, bricks, and other construction materials. That day, AC Lehr saw people throwing bricks and bottles. AC Lehr was hit by airmail, and his police department issued vehicle was also damaged. Lastly, AC Lehr thought that the actions were preplanned because people were taking garbage cans and using them to block traffic, which hampered the NYPD's ability to respond by car. People were lighting the litter and debris from the garbage cans on fire. That night, multiple police officers were injured by protesters. There was a highly publicized incident which involved someone purposefully hitting an NYPD sergeant with a car when the sergeant was trying to stop people from looting (**12 Board Review**). The sergeant was badly injured. The violence and looting continued throughout the night, going into the early morning hours of June 2, 2020, when the police were able to gain control of the situation. There were multiple other actions taking place across the city, including in Soho, which further hampered the NYPD's ability to respond in full. Later on in the day of June 2, 2020, Mayor Bill de Blasio enacted a citywide curfew that was to be in place from 8:00 p.m. that night until 5:00 a.m. on June 3, 2020.

On June 3, 2020, Bronx Borough President Ruben Diaz Jr., Bronx County District Attorney Darcel Clark, City Council member Vanessa Gibson, then Representative Eliot Engel, and others held a press conference to express their displeasure and decried the violence and looting of the previous night (**10 Board Review, 11 Board Review**). At some point during the day on June 3, 2020, Mayor de Blasio extended the curfew to be in place through June 7, 2020. AC Lehr thought that the curfew was at least partly in response to the actions on Fordham Road. AC Lehr did not attend the press conference, because he had been working for more than 24 hours and had to sleep, but he had been in touch with the stakeholders prior to its occurrence and was aware that it was happening.

By June 3, 2020, AC Lehr was beginning to get information from the NYPD Intelligence Bureau that § 87(2)(b) and § 87(2)(b) were planning an event for 6:30 p.m. on June 4, 2020. The event was called "§ 87(2)(b)" and was going to be held in the area of "The Hub," at 149th Street and 3rd Avenue in the Bronx. AC Lehr had previous knowledge of § 87(2)(b) and § 87(2)(b) and classified both groups as "capable of violence." In January 2020, there was an event called "§ 87(2)(b)" put on by these groups (**23 Board Review**). During § 87(2)(b) protesters vandalized train stations, trains, and subway gates and turnstiles throughout the city, and especially in Manhattan North. Several police officers were injured during § 87(2)(b). Because of this, and because of the actions that had occurred days earlier on the Fordham Road corridor, AC Lehr considered § 87(2)(b) to be a serious threat.

According to AC Lehr, the NYPD Intelligence Bureau is multilayered. There are intelligence officers, known as field intelligence officers, at the precinct level. These officers gather intelligence on the ground. There are borough-wide intelligence officers, and there are city-wide intelligence officers. This structure allows the police department to paint a picture of the entire city, so that if there are actions that impact multiple precincts or multiple boroughs, officers can make informed responses. The Intelligence Bureau released daily memos detailing protests and other actions across the city. AC Lehr also received personal emails and further documents detailing the upcoming § 87(2)(b) event. AC Lehr brought several § 87(2)(b) flyers with him to his CCRB interview, and explained that the flyers featured pictures of burning police vehicles, encouraged participants to break the citywide curfew, and encouraged white participants to learn how to "de-arrest" so that they could interfere in the NYPD's ability to arrest (**13 Board Review**).

AC Lehr's level of concern about § 87(2)(b) was raised due its location in The Hub. The Hub is the main commercial area of the South Bronx. The South Bronx is one of the poorest areas in the country, and The Hub is a vital part of the area. AC Lehr was concerned that The Hub was going to be looted the way Fordham Road was, and he was concerned about fire damage to the area. AC

Lehr wanted to protect the area because the fires in the Bronx in the 1970's were very damaging and took 40 years for the area to recover from. AC Lehr was getting phone calls from the same stakeholders such as Bronx Borough President Ruben Diaz Jr., and others who had been present at the press conference, "begging" for the police to protect the area. AC Lehr was also concerned because The Hub has streets that are dense like a "spider web" so it would be easy for protesters to clog the streets, cause damage, and prevent the police from effectively responding. § 87(2)(e)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Between June 2, 2020, and June 3, 2020, AC Lehr spoke with § 87(2)(b), the executive director of the § 87(2)(b). The § 87(2)(b) represents the workers and businesses in The Hub. In preparation for the event, § 87(2)(b) deployed the § 87(2)(b) sanitation workers to clear garbage cans from the area, board stores up, and take in all the tables and umbrellas that are set up for patrons of stores and restaurants. During this sweep, the § 87(2)(b) sanitation workers found "stockpiles" of whole cinderblock, broken cinderblock, bricks, and bottles. § 87(2)(b) told AC Lehr that those items are not typically found in The Hub in such large quantity. § 87(2)(b) also told AC Lehr that the sanitation workers had been out before and had not found those items. AC Lehr interpreted this to mean that the organizers of § 87(2)(b) were stockpiling these items to use as "airmail," because they were items not typically found in the area, and because they were the same type of items that had previously been used as "airmail." The § 87(2)(b) sanitation workers removed all the items to a garage in the area, where they were disposed of. § 87(2)(b) also instructed storeowners not to use cardboard to protect storefronts, so that the cardboard could not be used to set fires.

On June 4, 2020, AC Lehr stated that prior to responding to The Hub, he attended a muster meeting at the 40th Precinct station house. Also present at the meeting was Chief of Department Terence Monahan, SRG Chiefs Harry Wedin and John Dadamo, Inspector Gerard Dowling from SRG, Robert Gallitelli from the 40th Pct and his Executive Officer Isaac Soberal, Transit Chief Ed Delatorre, commanding officer from PSA 7 John Potkay, SRG Bikes captain Dave Miller, Chief Jesus Pintos from PBBX, Sergeant Kenneth Rice from NYPD Legal, Inspector Robert Rios from NYPD Intelligence, and various personnel from TARU. During the meeting, there was discussion about the 8:00 p.m. curfew, and discussion about how a reminder about the curfew would be made via a Long Range Acoustic Device (LRAD), a device used in this case to loudly broadcast mass communications to crowds. There was discussion about essential workers, because of the finest message that exempted essential workers from the curfew (**16 Board Review**). AC Lehr considered essential workers to be city, state, and federal employees, medical workers, and grocery store personnel. On duty EMT's would be exempt from the curfew and would be allowed to render aid past the curfew.

During his CCRB interview, Chief Monahan (**28 Board Review**) stated that at some point on the morning of June 4, 2020, the NYPD's Intelligence (Intel) division internally distributed copies of flyers (**13 Board Review**) detailing the events planned to take place in Mott Haven that same evening. These flyers said, "Come out tonight to the Mott Haven neighborhood" with flame images and were generated by a group called "§ 87(2)(b)". Chief Monahan explained that "§ 87(2)(b)" meant "Fuck the Police." That same morning, Chief Monahan was supervising the NYPD response to two NYPD officers (**29 Board Review**) who had been stabbed and shot the evening on June 3, 2020—an incident that Chief Monahan described as a "terrorist attack." Chief Monahan was aware that § 87(2)(b) members had previously perpetrated numerous acts of vandalism. Chief Monahan received one of these § 87(2)(b) flyers from the Intel division the morning of June 4, 2020. The Intel division was unable

to identify the organizational heads of § 87(2)(b) Chief Monahan did not recall if the Intel division identified other groups besides § 87(2)(b) as possibly being involved in organizing the planned Mott Haven protest. The Intel division knew the planned meeting point of the protest, which Chief Monahan remembered as “somewhere on The Hub on 149th Street” in the Bronx, but did not know of any planned route, march path, or destination to which the protest would march. The Intel division did not identify any I-Cards or outstanding warrants for the known § 87(2)(b) group members before the Mott Haven protest. Chief Monahan was not aware of any threat advisory of Wanted Posters generated or distributed for the § 87(2)(b) group prior to the Mott Haven protest.

On June 4, 2020, starting at approximately 3:00 p.m., Chief Monahan said that he was in regular face-to-face contact and conversation with AC Lehr about planned protest activity in the Mott Haven area planned for later that day. Chief Monahan described this event as AC Lehr’s responsibility because it was “his borough” and these planned protests were taking place in AC Lehr’s supervisory location. Chief Monahan was also in regular contact on June 4, 2020 with Intelligence Chief Thomas Galotti, NYPD Commissioner Dermot Shea, and various officials from the Mayor’s Office about small-scale incidents happening elsewhere in the five boroughs earlier in the day of June 4, 2020 and planned protest activity later in Mott Haven. Chief Monahan did not recall with which Mayor’s Office officials he was in communication with. When Chief Monahan was asked about the NYPD chain of command, he explained regarding these calls, “At that point I’m the highest-ranking member of the New York Police Department, so they’re not giving me instructions, they’re asking for information.” Chief Monahan clarified that he reports to Commissioner Shea. Commissioner Shea did not issue any instructions on June 4, 2020 to Chief Monahan regarding Chief Monahan’s response to the Mott Haven protests.

During Chief Monahan’s conversations with AC Lehr that day, AC Lehr explained to Chief Monahan that he had received multiple calls from elected officials, including representatives from the Chamber of Commerce and the Bronx District Attorney’s Office, who expressed fear that the June 4, 2020 events would be similar to the public unrest that occurred at a Mott Haven event on June 1, 2020, during which civilians threw fire accelerants, rocks, and stones at police officers (**30 Board Review**). AC Lehr told Chief Monahan that a gun arrest had been made near Mott Haven on June 4, 2020 before the planned demonstrations that evening. According to Chief Monahan, some of the perpetrators involved in the arrests for throwing rocks, stones and accelerants on June 1, 2020 told NYPD officers that they were going to an § 87(2)(b) protest. Based on all of this, AC Lehr feared that illegal acts—such as acts of public property destruction and disobedience—would occur on the evening of June 4, 2020 at the Mott Haven § 87(2)(b) protest. AC Lehr also told Chief Monahan that he feared that “the hub” would be “attacked” by the protestors. Chief Monahan told AC Lehr to make his own determinations in coordination with the NYPD Legal Bureau, members of which were already in contact with AC Lehr, and that the NYPD response to the Mott Haven protest “was his [meaning AC Lehr’s] call.” Chief Monahan did not know with how many commands AC Lehr was in contact with regarding his preparation for the Mott Haven protest.

AC Lehr did not request any additional personnel or resources from Chief Monahan. Chief Monahan explained that any additional personnel or resources AC Lehr would request would be requested through the NYPD Operations division, and would not go through Chief Monahan or need to be approved by Chief Monahan. Chief Monahan did not coordinate with outside agencies such as Department of Correction (DOC) regarding the deployment of outside agency resources, for example DOC vehicles being used to transport arrestees or participate in the planning for administering medical attention. Chief Monahan explained that the use of DOC resources would be coordinated through Chief Mulane at NYPD Operations. Chief Monahan was aware that DOC vehicles had been used to transport arrestees at previous NYPD mass-arrest events.

At some point on the afternoon of June 4, 2020, AC Lehr supervised a planning meeting at the 40th Precinct stationhouse, which Chief Monahan did not attend. Later that afternoon, Chief Monahan met with AC Lehr at the 40th Precinct stationhouse, and AC Lehr told Chief Monahan what his plans were for that evening, how many personnel he had, and that the situation was fluid because it was unknown how large the protest group would be. Chief Monahan was not involved in any decision-making regarding any pre-planned force to be used against the Mott Haven protestors, including “compressing” or “packing” the protestors using physical force.

At approximately 6:00 p.m. that evening, AC Lehr told Chief Monahan that the planned march was about to begin in Mott Haven. Chief Monahan drove past the protest meeting location on East 149th Street, where he saw “a lot of people gathered in the area.” Chief Monahan did not observe anything illegal from the protest group. Chief Monahan described the group as about to start marching. Chief Monahan drove around in the area, observed stores boarded up and closed down, spoke with residents at the Patterson Houses, and remained in the general vicinity to observe.

June 4, 2020

AC Lehr stated that in the minutes leading up to 8:00 p.m., the LRAD played a message advising protesters of the curfew and telling them to leave the area. The sidewalks were open to the protestors and, prior to 8:00 p.m., they were not kept from leaving. At approximately 8:00 p.m., AC Lehr was standing at 136th Street between Brown and Brook Avenue and he made the decision that arrests should start. AC Lehr made this decision after considering the following: the violent history of the groups organizing the protest (§ 87(2)(b) and § 87(2)(b)), the fact that arrests were made prior to the protest of people intending to come to the protest with a gun, accelerant, and hammers, the fact that protest organizers had refused a dialogue with the police department prior to the protest, that the event organizers openly advertised against the curfew, that protestors held signs that said “F” the curfew, that protestors yelled “F” the curfew, that the LRAD warnings did not have the desired effect, and that he was a mile away from The Hub which he was charged with protecting. AC Lehr was standing with Sgt. Rice, SRG Deputy Chief John Dadamo, and SRG Inspector Jerry Downing. Sgt. Rice told AC Lehr that he had standing to start arrests.

AC Lehr told DC Dadamo and Ins. Dowling that arrests could begin, and they communicated that decision to SRG officers in the crowd with protestors. AC Lehr communicated this decision to SRG personnel because SRG is specifically trained to handle protests, crowd control, and other events of the magnitude of the protest that day. Shortly after, AC Lehr observed arrests begin. AC Lehr saw officers wrestle and grapple with protestors. He saw officers push or shove protestors causing them to contact parked cars. He did not witness officers discharge pepper-spray; however, he smelled it and was exposed to it. He saw officers use police shields against protestors, which he believed the officers used to defend themselves. AC Lehr saw officers drawn, raised, and swung at protestors, but not see a particular instance of someone being hit by a baton. AC Lehr, who was standing on the west-end of the line of officers standing at 136th Street and Brook Avenue, he did not see a line of officers compress the crowd. The officers were peeling protestors from the crowd to shrink the crowd, but AC Lehr did not see officers compress the crowd. AC Lehr acknowledged that police officers encircled protestors to pin them in, but that was only done after he made the decision to make arrests. This tactic was not used prior to the decision made to arrest the protestors.

AC Lehr did not observe civilians sustain injuries during the arrests. AC Lehr was unaware at the time of the interview whether a protestor sustained any injury during their arrests. AC Lehr stated that an arresting officer is responsible for the medical well-being of an arrestee, and that the Desk Officer at the stationhouse in the precinct of the arrest should be informed by the arresting officer

whether someone required medical attention. AC Lehr stated that sometimes civilian complain of injuries later, possibly due to adrenaline. The NYPD has procedures for providing medical attention to civilians in a mass casualty incident, but for an incident involving mass arrests, the Mass Arrest Processing Center (MAPC), which is under the Criminal Justice Bureau (CJB), has protocols for addressing the medical needs of mass numbers of arrestees. AC Lehr is not directly responsible for ensuring that medical attention be provided to a mass number of arrestees. AC Lehr saw members of CJB present on scene, but he did not speak with them during the incident or know who the highest-ranking person from CJB was there. AC Lehr did not remember seeing EMS or medical personnel on scene, though he acknowledged it was possible they were there. No one informed him that civilians required medical attention. He did speak with any EMTs or medical personnel during this incident. He did not speak with or interact with anyone who identified themselves as a “street medic.” He was unaware of people self-identified as a street medic rendering aid during the protest.

Chief Monahan stated that at some point during the morning on June 4, 2020, the NYPD’s Intelligence (Intel) division internally distributed copies of flyers detailing the events planned to take place in Mott Haven that same evening. These flyers said, “Come out tonight to the Mott Haven neighborhood” with flame images and were generated by a group called “§ 87(2)(b)” which stands for “Fuck the Police.” Chief Monahan was in touch with AC Lehr throughout the day because AC Lehr was the commanding officer in the Bronx. At some point on the afternoon of June 4, 2020, AC Lehr supervised a planning meeting at the 40th Precinct stationhouse, which Chief Monahan did not attend. Later that afternoon, Chief Monahan met with AC Lehr at the 40th Precinct stationhouse, and AC Lehr told Chief Monahan what his plans were for that evening, how many personnel he had, and that the situation was fluid because it was unknown how large the protest group would be. Chief Monahan was not involved in any decision-making regarding any pre-planned force to be used against the Mott Haven protestors, including “compressing” or “packing” the protestors using physical force.

Between 8:15 p.m. and 8:30 p.m., Chief Monahan arrived at East 135th Street and Brook Avenue in the Bronx to respond to a radio transmission that NYPD officers had “stopped” the protest group in that location. Chief Monahan did not know why the group was stopped in that area, and did not instruct any officer to stop the group in that area. Chief Monahan was not aware of any strategic or tactical reason why NYPD officers would have stopped the protest in that area. Protestors were already being placed into custody when he arrived. On scene, Chief Monahan observed a woman—whom the CCRB identified as § 87(2)(b) standing across the street in front of a housing development while chanting, “Push through the police, push through the police” into the megaphone at the crowd of protestors. Other officers were on scene near Chief Monahan from various commands, but he did not recall who they were or which commands they were from. Chief Monahan did not know who § 87(2)(b) was, did not recognize her, and did not have any intelligence on her. Chief Monahan did not know that her name was § 87(2)(b) nor that § 87(2)(b) was a protest leader. As of the date of his CCRB interview, Chief Monahan did not know § 87(2)(b) identity. Chief Monahan believed that § 87(2)(b) was inciting the crowd, and he decided to arrest her for the use of an amplified device, i.e. the megaphone. § 87(2)(b) use of the megaphone also caused a public safety issue as members of the housing development(s) nearby exited their residence and gathered near the crowd. Chief Monahan also noted that at that moment, § 87(2)(b) was in violation of the Mayor’s curfew. Before § 87(2)(b) was arrested, Chief Monahan walked towards her and said, “Please put down the megaphone.” § 87(2)(b) told Chief Monahan to “Go fuck yourself.” There was no further conversation between the two, and this interaction lasted seconds. Chief Monahan then ordered an officer standing next to him to arrest § 87(2)(b) by saying “Place her under arrest.” Chief Monahan did not recall who this officer was. Chief Monahan had no further interaction with § 87(2)(b).

Chief Monahan was then approached by a member of the Legal Aid Society who told him that multiple legal observers—who were identifiable by their green hats—were handcuffed. Chief Monahan stated that he never ordered the arrest of legal observers. Chief Monahan also had a conversation with AC Lehr. AC Lehr said that he made the determination to arrest the entire group of civilians who marched across the bridge for violating the curfew. Chief Monahan described the location of this conversation as being at the “rear” of the protest, which was now a mass arrest scene. No members of NYPD Legal were present for this conversation between AC Lehr and Chief Monahan. AC Lehr further told Chief Monahan that the group had been disorderly, that AC Lehr had given the group numerous verbal warnings via the LRAD, and that AC Lehr consulted a Lieutenant from the NYPD Legal Bureau before deciding to make the arrests. Chief Monahan did not recall any further reasoning AC Lehr provided for his decision to arrest the group of civilians.

At approximately 9:00 p.m., in the vicinity of East 136th Street and Brook Avenue in the Bronx, Chief Monahan had a conversation with a lieutenant from the NYPD Legal Bureau who was on scene. After this conversation, Chief Monahan told a different lieutenant on scene that the handcuffed legal observers were to be released. A member of the National Lawyers Guild told Chief Monahan that not all the NLG legal observers on scene were wearing green hats, as they had run out of the green hats to distribute to the legal observers. Chief Monahan told the NLG member to identify to the Lieutenant which members of the handcuffed group were legal observers without green hats, and after doing so the remaining legal observers were released. Chief Monahan explained that he made the decision to release the legal observers based on his discretion and experience at past protests.

Chief Monahan’s understanding of the curfew’s exceptions was that the NYPD Legal Bureau had determined that civilian medical workers rendering medical aid to protestors would not be considered essential workers—and would therefore not fall under any exception to the curfew—because the curfew’s exceptions for essential workers only covered essential traveling to or from work. Chief Monahan noted that the NYPD had access to EMTs who could respond “in seconds” to assist injured civilians at a protest. At no point on scene did Chief Monahan observe any civilians who were medically unwell or visibly injured. At no point on scene was Chief Monahan made aware of any civilian making complaints of injury or requesting medical attention. Chief Monahan had no role in directing the medical response during this incident. Chief Monahan did not observe any officer injury during this incident. Chief Monahan did not direct the transportation of any prisoners during this incident and did not know where prisoners were transported.

Video #1 (25 Board Review): This is cellphone footage taken on June 4, 2020, at an unknown time. The video was captured by § 87(2)(b),” and posted to their Twitter account. The video is 02:16 minutes long, is in color, and has audio beginning at 00:00.

The camera is focused on the intersection of 136th Street and Brook Avenue. On the street there is a large group of protesters stopped by officers on bicycles. There appears to be officers on both sides of the protesters. An automated message about curfew is playing on a speaker. At 00:17, § 87(2)(b) is heard saying, “Can y’all hear me on the other side?” At 00:28, the video zooms in to a group of officers standing behind the protesters. At 00:54, the protesters start chanting, “Let us leave.”

At 01:00, § 87(2)(b) says that, “They are fighting!” The video zooms in to some commotion on 136th Street. At 01:13, they say, “They fighting, they got someone on the floor!” At 01:20, they say, “Because it’s eight and nobody is supposed to be in the street, that’s what they telling them.” The video concludes.

Video 2 (24 Board Review): The video begins with a group of protesters at “The Hub” in the Bronx. There are drums heard. At 00:17, a message about a group of protesters being held at Queens Central Booking comes up. The original message is from § 87(2)(b). At 00:23, a video of § 87(2)(b) comes up. There is a time stamp written on the video as 07:13. § 87(2)(b) is speaking into a megaphone. § 87(2)(b) says to be wary of white liberals. At 01:00, § 87(2)(b) talks about how the Mayor made an 8:00 p.m. curfew. At 01:04, § 87(2)(b) says, “I’m grown. Fuck the curfew!” There are cries of “Fuck the curfew” heard in the crowd. At 01:20, § 87(2)(b) starts a, “Fuck that curfew” chant. At 01:49, § 87(2)(b) talks about colonization. At 02:03, she talks about how Minnesota, “Burned that Precinct the fuck down.” The crowd cheers.

At 02:22, there is a video of a firecracker in the middle of the street. The camera pans to a group of protesters marching down the street. They are chanting, “§ 87(2)(b) Fuck the police.” At 02:39, the camera is now in the crowd and pointed towards the front of the crowd. The crowd is still chanting, “§ 87(2)(b) Fuck the police.” At 02:54, a sign is seen that says, “All power to the people.” The video has a time stamp on it that says, “7:30.” At 03:10, the video shows a woman banging pots together outside of her window. At 03:20, there is a picture of a person on a bicycle.

At 03:23, the video has a time stamp of “7:56.” The protesters are walking down 136th Street towards Brook Avenue in the Bronx. At 03:29, a bunch of protesters begin running in the opposite direction. At 03:40, the video has a time stamp of “7:58.” The person filming is now closer to the intersection of Brook Avenue and 136th Street. There is a group of officers wearing bike gear. One officer is heard yelling, “Move the crowd!” The officers pick up their bicycles and push them forward into the group of protesters. Someone in the front tells people to move back. They continue to shout, “Move back!” At 04:22, someone tells the officers that they are corralling them and that they do not know where to go. The protesters begin yelling, “Where do we go?”

At 04:29, the video has a timestamp of, “8:01.” There is a line of police officers in bike gear. The protesters are chanting, “Let us through.” At 05:02, the video caption reads, “we will be here tomorrow and.” The protesters are chanting, “And the next day.” At 05:24, one of the protesters in the front is trying to explain to the officers that there are more officers on the other side of them. They ask an officer where they are going to go and he says, “Jail.” At 05:36, the video timestamp is 08:07, the protesters are chanting, “We are peaceful, what the fuck are you?” At 06:10 in the video, the timestamp is “8:11.” The protesters are very close to the officers on bicycles. Someone tells the officers that they are pushing them from the other side. At 06:24, a caption on the screen reads, “cops started pushing from the other side, cops start beating and macing the shit out of people.”

At 06:33, the camera pans to officers on top of a civilian vehicle hitting people with their batons. One of the officers has helmet number, “75.” The officers are yelling at the protesters to get back. There are a total of three officers, one in a white shirt, on top of the vehicle. Another officer gets onto the car and takes out their baton. The officers continue to hit people with their batons by swinging in a downwards motion over their heads. At 07:07, someone says, “We are getting maced.” There are multiple people on the ground. Multiple officers are bringing people to the ground and zip tying them. At 07:31, someone in a black morph suit is being grabbed by officers. Someone tells gabriel.himself to put his hands behind his back. The camera cuts out.

At 07:42, there is a photograph of some people and the caption on screen reads, “vans and cells seemed to be separated by race again. Whites/non-black poc vs. Blacks. No on can give me an answer as to why. Fuck the police. Fuck the curfew. Ayer hoy manana y siempre. At 07:48, a message comes up for NYC Protest Resources. The video concludes.

Video 3 (26 Board Review): The video begins with § 87(2)(b) filming from a high vantage point. The camera is focused on the intersection of 136th Street and Brook Avenue. On the street there is a large group of protesters stopped by officers on bicycles. There appears to be officers on both sides of the protesters. An automated message about curfew is playing on a speaker. At 00:17, § 87(2)(b) is heard saying, “Can y’all hear me on the other side?” At 00:28, the video zooms in to a group of officers standing behind the protesters. At 00:54, the protesters start chanting, “Let us leave.”

At 01:00, § 87(2)(b) says that, “They are fighting!” The video zooms in to some commotion on 136th Street. At 01:13, they say, “They fighting, they got someone on the floor!” At 01:20, they say, “Because it’s eight and nobody is supposed to be in the street, that’s what they telling them.” The video concludes.

Below is a screenshot (**27 Board Review**) from :01 of Video 3, depicting a large group of civilian protesters in the middle of the frame, flanked at the top and bottom of the frame by lines of police officers.



These events led to the following allegations against Chief Monahan and Assistant AC Lehr:

Allegation (A) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (B) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (C) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (D) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (E) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (F) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (G) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (H) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (I) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (J) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (K) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (L) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (M) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (N) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (O) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (P) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (Q) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (R) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (S) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (T) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (U) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of individuals.

Allegation (V) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of individuals.

Allegation (W) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (X) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (Y) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (Z) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (AA) Force: Chief of Department Terence Monahan participated in the use of physical force against individuals.

Allegation (AB) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against individuals

Allegation (AC) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)

Allegation (AD) Force: Assistant Chief Kenneth Lehr participated in the use of physical

force against § 87(2)(b)

Allegation (AE) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)

Allegation (AF) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)

Allegation (AG) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)

Allegation (AH) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)

Allegation (AI) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)

Allegation (AJ) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)

Allegation (AK) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)

Allegation (AL) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)

Allegation (AM) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)

Allegation (AN) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)

Allegation (AO) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)

Allegation (AP) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)

Allegation (AQ) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)

Allegation (AR) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)

Allegation (AS) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)

Allegation (AT) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)

Allegation (AU) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)

Allegation (AV) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)

Allegation (AW) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)

Allegation (AX) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)

Allegation (AY) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)

Allegation (AZ) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)

Allegation (BA) Force: Chief of Department Terence Monahan participated in the use pepper spray against individuals.

Allegation (BB) Force: Assistant Chief Kenneth Lehr participated in the use pepper spray against individuals.

Allegation (BC) Force: Chief of Department Terence Monahan participated in the use pepper spray against § 87(2)(b)

Allegation (BD) Force: Assistant Chief Kenneth Lehr participated in the use pepper spray against § 87(2)(b)

Allegation (BE) Force: Chief of Department Terence Monahan participated in the use pepper spray against § 87(2)(b)

Allegation (BF) Force: Assistant Chief Kenneth Lehr participated in the use pepper spray against § 87(2)(b)

Allegation (BG) Force: Chief of Department Terence Monahan participated in the using of blunt instruments to strike individuals.

Allegation (BH) Force: Assistant Chief Kenneth Lehr participated in the using of blunt instruments to strike individuals.

Allegation (BI) Force: Chief of Department Terence Monahan participated in the using of blunt instruments to strike § 87(2)(b)

Allegation (BJ) Force: Assistant Chief Kenneth Lehr participated in the using of blunt instruments to strike § 87(2)(b)

Allegation (BK) Force: Chief of Department Terence Monahan participated in the using of blunt instruments to strike § 87(2)(b)

Allegation (BL) Force: Assistant Chief Kenneth Lehr participated in the using of blunt instruments to strike § 87(2)(b)

Allegation (BM) Force: Chief of Department Terence Monahan participated in the using of blunt instruments to strike § 87(2)(b)

Allegation (BN) Force: Assistant Chief Kenneth Lehr participated in the using of blunt instruments to strike § 87(2)(b)

Allegation (BO) Force: Chief of Department Terence Monahan participated in the using of blunt instruments to strike § 87(2)(b)

Allegation (BP) Force: Assistant Chief Kenneth Lehr participated in the using of blunt instruments to strike § 87(2)(b)

Allegation (BQ) Force: Chief of Department Terence Monahan participated in hitting individuals with bicycles.

Allegation (BR) Force: Assistant Chief Kenneth Lehr participated in hitting individuals with bicycles.

Allegation (BS) Force: Chief of Department Terence Monahan participated in hitting § 87(2)(b) with a bicycle.

Allegation (BT) Force: Assistant Chief Kenneth Lehr participated in hitting § 87(2)(b) with a bicycle.

Allegation (BU) Force: Chief of Department Terence Monahan participated in the striking of individuals with police shields.

Allegation (BV) Force: Assistant Chief Kenneth Lehr participated in the striking of individuals with police shields.

Allegation (BW) Abuse of Authority: Chief of Department Terence Monahan threatened to arrest individuals.

Allegation (BX) Abuse of Authority: Assistant Chief Kenneth Lehr threatened to arrest individuals.

Allegation (BY) Abuse of Authority: Chief of Department Terence Monahan did not obtain medical treatment for individuals.

Allegation (BZ) Abuse of Authority: Assistant Chief Kenneth Lehr did not obtain medical treatment for individuals.

AC Lehr issued the order to arrest all of the protestors for breaking the 8:00 p.m. citywide curfew. AC Lehr believed he was justified in issuing the mass arrest order after receiving confirmation from Sgt. Rice of the NYPD legal bureau. Sgt. Rice advised AC Lehr that protestors and legal observers could all be arrested.

AC Lehr denied “kettling” occurred and asserted that “kettling” is not a police term or tactic. AC Lehr posited that he first heard the term “kettling” from the media and Department of Investigation report and ascertained that the term was being used in place of the NYPD tactics of encircling or enveloping a group of civilians.

The investigation determined that AC Lehr gave the order for mass arrests and that this order resulted in officers assembling in a formation around the protesters such that the protesters were unable to leave. This order facilitated the detainment and arrest of legal observers and volunteer medics. AC Lehr’s order also resulted in use of widespread physical force against the crowd, including kicking, punching, pepper spray, batons, and the use of bicycles and tactical shields as blunt instruments. Multiple people in the crowd were subsequently injured and several were not provided medical care despite being visibly injured and despite the pleas of other people in the crowd to provide appropriate care.

As referenced in the above case summary, the CCRB conducted additional investigations into alleged misconduct stemming from this incident, including 15 cases with shared civilian complainants (**36 Board Review**).

In September 2020, Human Rights Watch (HRW) released a report entitled “‘Kettling’ Protesters in the Bronx: Systemic Police Brutality and Its Costs in the United States.” The HRW report (**34 Board Review**) was compiled via the interviews of 81 protesters, 19 additional interviews of community members, activists, city officials and various other stakeholders, analysis of more than 150 videos of the protest, and legal documents. The report found that, “Police conduct during the Mott Haven protest on June 4 amounts to serious violations of international human rights law which the federal, state, and local governments are obligated to observe. These include law enforcement’s excessive use of force, violations of the rights to free expression and peaceful assembly, arbitrary arrests and detentions, and cruel and degrading treatment of detainees. Legal observers and volunteers providing jail support are human rights defenders who are protected under international human rights law and should never be targeted for this work. The attacks on street medics, the obstruction of their work, and the denial of medical care to injured protesters amount to violations of the right to health.” The report further found that the NYPD corralled protesters, restricted their movement, and did not allow them to leave before the start of the 8:00 p.m. curfew. Also of importance is the reports examination of the flyers and social media posts advertising the protest: “Some of the flyers for the § 87(2)(b) protest depicted a police car burning and a cartoon of a man jumping over a police officer. But a Code of Conduct for the protest was also posted online that denounced “goofy irresponsible adventurism” and asked protesters to “follow the lead of the people from the hood [neighborhood].” A flyer about the protest directed demonstrators not to bring weapons. Human Rights Watch is not aware of any threats or acts of violence or vandalism by the protest organizers or protesters during the § 87(2)(b) protest in Mott Haven. To the contrary, the protest was peaceful until the police responded with violence.”

On January 14, 2021, Attorney General of the State of New York Letitia James filed a lawsuit regarding the use of brutal force and a pattern of false arrests stemming from peaceful protests since May 2020 against the City of New York, Mayor Bill de Blasio, Police Commissioner Dermot Shea, and Chief of Department Terence Monahan (**33 Board Review**). The lawsuit claims that the NYPD used “a crowd-control tactic called ‘kettling’ to corral and detain individuals who were peacefully protesting in order to impede constitutionally protected assemblies and to conduct mass arrests.” The lawsuit also asserts that on June 4, 2020, the NYPD arrested over 250 for violating the curfew, including non-protesters serving as legal observers, medics, and other essential workers. The lawsuit notes that not only was COD Monahan present at the protest but that he, “Personally

participated and directed NYPD Officers to make multiple unlawful arrests, and upon information and belief, witnessed officers engage in excessive force against protesters.”

As per Patrol Guide Procedure 213-11: an incident commander is defined as the highest-ranking uniformed police supervisor responsible for the command, control, and coordination of all incident operations. For planned events such as parades, demonstrations, and similar situations, the precinct commanding officer will ordinarily be designated as incident commander. If the event occurs in two or more commands within the same patrol borough, the patrol borough commander will be designated as incident commander **(14 Board Review)**.

As per Patrol Guide Procedure 210-04: when a prisoner in custody requires medical or psychological treatment, request ambulance and remove prisoner to hospital directly from the place of arrest, if necessary **(31 Board Review)**.

Patrol Guide Procedure 221-01 **(32 Board Review)** states that an officer may use only the reasonable force necessary to gain control or custody of a subject. The procedure also enumerates factors officers should consider when determining whether use of force is reasonable. The factors are as follows:

- a. The nature and severity of the crime/circumstances
- b. Actions taken by the subject
- c. Duration of the action
- d. Immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders
- e. Whether the subject is actively resisting custody
- f. Whether the subject is attempting to evade arrest by flight
- g. Number of subjects in comparison to the number of MOS
- h. Size, age, and condition of the subject in comparison to the MOS
- i. Subject’s violent history, if known
- j. Presence of hostile crowd or agitators
- k. Subject apparently under the influence of a stimulant/narcotic

The investigation established that AC Lehr was the highest-ranking member of service to acknowledge giving orders to arrest the crowd and that he was the incident commander at the protest. His orders resulted in the use of force to encircle the crowd and indiscriminately arrest all members therein. Subsequently, medical treatment was either delayed or denied to the group en masse. § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

AC Lehr and COD Monahan were the highest-ranking members of service on the scene. COD Monahan stated that he did not issue any commands while on location, that he was unaware of any orders given, and that he was only tangentially aware of the arrests taking place at the location through radio communications and brief conversation with officers on scene. § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

Squad No.: 4

Investigator:	<u>Tessa Yesselman</u>	<u>SI Tessa Yesselman</u>	<u>January 27, 2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date

Reviewer:	<u>Olas Carayannis</u>	<u>Olas Carayannis, DCSO</u>	<u>April 4, 2022</u>
	Signature	Print Title & Name	Date